IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1900 OF 2005
IN
APPEAL NO. 555 OF 2005
IN
NOTICE OF MOTION NO. 373 OF 2005
ALONGWITH
NOTICE OF MOTION NO. 853 OF 2004
IN
SUIT NO. 2812 OF 2001

Jayesh H. Pandya] .. Appellant (Ori.Plaintiff)

Versus

Sukanya Holdings Pvt. Ltd. & ors.] .. Respondents (Ori.Defendants)

Mr. S.H. Doctor, senior counsel with Mr. J.P. Sen & Ms. Jacinta D'Silva for the appellant.

Mr. H.J. Thakkar, senior counsel i/b M/s. Swati Sawant for respondent No.1.

Mr. A.K. Abhyankar with Mr. A.A. Joshi i/b Mr. C.K. Pendse for respondent No.3.

Mr. Pankaj Kavli i/b Mr. Vaibhav Karnik for respondent No.4.

Mr. Jyoti Chavan for respondents No.9, 14, 15 & 16.

Mr. Y.V. Divekar i/b Mr. C.M. Lokesh for respondents No.10 and 11.

Mr. H.V. Gala i/b Mr. M.S. Rane for respondents No.24 & 25.

Mr. D.V. Deokar, Ist Assistant to Court Receiver is present.

CORAM: R.M. LODHA &
S.A. BOBDE, JJ.

DATED: 19TH SEPTEMBER, 2006

P.C. :

. We heard the senior counsel and the counsel for the parties at quite some length. Pursuant to our order dated 15th September, 2006 the Court Receiver placed before us, the Account Books viz. (1) Ledger Account Book for the year 1998-1999; (2) Cash Bank Book/Journal for the year 1998-1999; (3) Journal Books for the year 1996-1997; (4) Ledger Book for the year 1996-1997, and (5) Duplicate copy of the Balance Sheet as on 31st March, 1999. We perused the relevant pages of these books reflecting the disputed sale transaction of the flats. The copy of the Balance Sheet as on 31st March, 1999 shows that the sum of Rs.2,66,00,000/- was received by the firm from the sale of flats.

2. Having considered all the aspects, we are of the view that the Court Receiver appointed for the property in dispute may be ordered to be continued pending disposal of the Appeal.

3. We, accordingly, pass the following order:

(i) The Court Receiver appointed earlier

for the subject property shall continue pending the disposal of the Appeal.

(ii) Save and except the flat Nos.401 and 402, the parties in possession of the respective flats shall continue to remain in possession without payment of royalty and security to the Court Receiver. It is clarified that if any of the occupants of such flats vacate the said flat, the information in that regard shall be furnished to the Court Receiver and permission of the Court shall be obtained before inducting any other person by the concerned party in such flat.

(iii) As regards flat Nos.401 and 402, the Court Receiver shall get the valuation of the said flats done from the approved valuer and fix the reserved royalty for the said flats and invite bids from the parties if they desire to occupy such flat/flats as the agent of the Court Receiver, failing which the bid shall be invited from outsiders and possession of the said flats shall be given on agency basis at the royalty fixed by the

Court Receiver.

4. Notice of Motion stands disposed of.

5. At this stage, the counsel for respondents No.9, 14, 15 and 16 prays for stay of this order. However, we decline the said prayer.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]